

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

OVOUKE FRANK OFIKORO,)	
)	
Petitioner,)	
)	
vs.)	Civil Action No. 3:23-cv-208
)	Judge Stephanie L. Haines
WARDEN UNDERWOOD and)	Magistrate Judge Maureen P. Kelly
W.C. FANNIN, Unit Manager,)	
)	
Respondents.)	

MEMORANDUM ORDER

Presently before the Court is a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 filed *pro se* by Ovouke Frank Ofikoro (“Petitioner”) (ECF No. 1) on September 5, 2023. Petitioner sought habeas relief in the form of application of Earned Time Credits under the First Step Act. However, the Petition was never properly filed, and the Court issued a Deficiency Order (ECF No. 2) on September 6, 2023, citing, *inter alia*, a failure to pay the filing fee or complete a motion to proceed *in forma pauperis*. Petitioner never responded to the Court’s Deficiency Order, nor did he respond to an Order to Show Cause why his case should not be dismissed for failure to prosecute (ECF No. 3). At the time of the Petition, Petitioner was incarcerated at Federal Correctional Institution at Loretto (“FCI-Loretto”) but has since been released. Mail from the Court to Petitioner at FCI-Loretto was returned as undeliverable (ECF No. 4) and Petitioner has never provided the Court with a forwarding address. This matter was referred to Magistrate Judge Maureen P. Kelley for proceedings in accordance with the Federal Magistrates Act, 28 U.S.C. § 636, and Local Civil Rule 72.D.

On February 2, 2024, Magistrate Judge Kelly filed a Report and Recommendation (ECF No. 5) recommending that the Petition (ECF No. 1) be dismissed for failure to prosecute.

Petitioner was advised he had fourteen days to file objections to the Report and Recommendation. *See* 28 U.S.C. § 636 (b)(1)(B) and (C) and Local Civil Rule 72.D.2. Petitioner has filed no objections, and the time to do so has expired.

Upon review of the record and the Report and Recommendation (ECF No. 5) under the applicable “reasoned consideration” standard, *see EEOC v. City of Long Branch*, 866 F.3d 93, 100 (3d Cir. 2017) (standard of review when no timely and specific objections are filed), and pursuant to Local Civil Rule 72.D.2, the Court will accept in whole the findings and recommendations of Magistrate Judge Kelly. Magistrate Judge Kelly correctly determined Petitioner has failed to effectively prosecute his case under the *Poulis v. State Farm Fire and Cas. Co.*, 747 F.2d 863 (3d Cir. 1984) factors and that the case may be moot given that the public record suggests Petitioner is no longer in custody. *See Joseph v. Johns*, No. 04-139J, 2005 WL 3447932, at *2 (W.D. Pa. Oct 24, 2005) (quoting *Fla. Ass’n of Rehab. Facilities, Inc. v. State of Fla. Dept. of Health and Rehab. Servs.*, 225 F.3d 1208, 1216 (11th Cir. 2000)), *report and recommendation adopted*, 2005 WL 3447933 (W.D. Pa. Dec. 14, 2005).

Accordingly, the following order is entered:

ORDER

AND NOW, this 26th day of February, 2024, IT IS ORDERED that the petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 (ECF No. 1) hereby is DISMISSED WITHOUT PREJUDICE; and,

IT IS FURTHER ORDERED that Magistrate Judge Kelly’s Report and Recommendation (ECF No. 5) is adopted as the Opinion of the Court; and,

IT IS FURTHER ORDERED that the Clerk of Court is directed to mark this matter closed.

A handwritten signature in black ink, appearing to read "Stephanie L. Haines", written over a horizontal line.

Stephanie L. Haines
United States District Judge